

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SMART INSURANCE COMPANY,

Plaintiff,

-against-

BENECARD SERVICES, INC.,

Defendant.

Case No. 1:15-cv-04384-KBF

**DECLARATION OF JOHN M. HILLEBRECHT
IN SUPPORT OF DEFENDANT BENECARD SERVICES, INC.'S OPPOSITION TO
PLAINTIFF'S DAUBERT MOTION TO EXCLUDE THE OPINIONS AND
TESTIMONY OF FRANCOISE CULLEY-TROTMAN**

JOHN M. HILLEBRECHT, under penalty of perjury, hereby declares as follows:

1. I am an attorney-at-law in the State of New York, admitted in the United States District Court for the Southern District of New York, and a member of the law firm of DLA Piper LLP (US). I am familiar with the facts and circumstances stated herein and respectfully submit this Declaration in further support of Defendant Benecard Services, Inc.'s opposition to Plaintiff Smart Insurance Company's motion to exclude the opinions and testimony of Francoise Culley-Trotman.

2. Attached hereto as Exhibit 1 is a true and correct copy of the Expert Report of Erin Costell, dated April 18, 2016.

3. Attached hereto as Exhibit 2 is a true and correct copy of the Expert Report of Francoise Culley-Trotman, dated May 25, 2016.

4. Attached hereto as Exhibit 3 is a true and correct copy of Francoise Culley-Trotman's Curriculum Vitae.

5. Attached hereto as Exhibit 4 is a true and correct copy of referenced portions of

the deposition of Francoise Culley-Trotman, dated July 15, 2016.

6. Attached hereto as Exhibit 5 is a true and correct copy of the Medicare Managed Care and Prescription Drug Benefit Manual, Chapters 21 and 9.

7. Attached hereto as Exhibit 6 is a true and correct copy of a letter from CMS to Smart entitled Work Plan Request, dated May 13, 2013.

8. Attached hereto as Exhibit 7 is a true and correct copy of referenced portions of the deposition of Gerard Mulcahy, dated June 29, 2016.

9. Attached hereto as Exhibit 8 is a true and correct copy of a sanctions letter from CMS to Smart, dated April 23, 2013.

10. Attached hereto as Exhibit 9 is a true and correct copy of email correspondence between Tammy Cappadonna and Danielle Panich dated January 15, 2013.

11. Attached hereto as Exhibit 10 is a true and correct copy of email correspondence between Tammy Cappadonna and Danielle Panich dated January 15, 2013.

Pursuant to 28 U.S.C. § 1786, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Respectfully submitted,

DLA Piper LLP (US)

By: /s/ John M. Hillebrecht

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Dated: August 30, 2016